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-- REMARKS --

Claims 1-27 remain under consideration. Applicants thank Examiner Ehichioya and Examiner Alam for their courtesies in attempting to arrange a telephonic interview, but regret that their requests for an interview were denied based on the interview conducted after the first office action.

A. The Examiner rejected claims 1-5, 8-19, and 22-27 as unpatentable over Schoenberg in view of Brinkman.

The rejection of claims 1-5, 8-19, and 22-27 as unpatentable under 35 U.S.C §103(a) over Schoenberg in view of Brinkman is traversed. In order to maintain this 103(a) rejection, each and every element of the claimed invention must be taught or suggested in as great detail by the references, alone or in combination, as claimed. Because the references do not teach or suggest each and every element, this rejection must fall.

At a minimum, the references do not teach or suggest "determining whether the access request corresponds with the patient access instructions," as claimed in claims 1, 15 and 27. The Examiner correctly notes that Schoenberg does not teach or suggest this limitation, so in order to maintain the rejection, Brinkman must teach or suggest the element.

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Brinkman teaches no such element. At most, Brinkman teaches that the system should verify the eligibility of a "caller" to use the system. See the cited section of Brinkman, reproduced below.

After the caller's access code is entered, the system reviews a list of eligible access codes 1002 and determines whether the caller's access code matches 1003 any of the eligible access codes. If the access code matches one of the eligible access codes, the system loads the member profile 1004 corresponding to the caller's access code from the member profile database 1006. The operator may then view

This teaching is echoed elsewhere in Brinkman – for example, see column 9, lines 37-

45:

The system verifies the caller's eligibility by comparing the caller's identification information with information stored in a database of member profiles 709 of eligible callers. Optionally, the service may first search the database using one access code, such as a member identification number, and then subsequently by the caller's name if the access code is not found in the database. If the system verifies that the caller is eligible to access the system, the system provides the client/operator with additional information from the member profile database 709 about the caller, such as the caller's name and dependent names, address, city, state, zip code, telephone number, health benefit plan information, prescription drug history, self-reported health information, and recent contact history. The self-reported

Thus, rather than teach a system that determines if an access request corresponds with the patient access instructions, the Brinkman reference teaches that the system ensures that the caller has authority to use the system, rather than the information. Thus, not only does Brinkman *not* teach the claimed element, Brinkman *directly and unequivocally teaches away* from the claimed invention.

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The Brinkman disclosure around the Examiner's citation to column 14, lines 14-20 (reproduced below) further, and more specifically, teaches that the system is attempting to prevent unauthorized access to the system, rather than the information.

After the caller's access code is entered, the system
10 reviews a list of eligible access codes 1002 and determines
whether the caller's access code matches 1003 any of the
eligible access codes. If the access code matches one of the
eligible access codes, the system loads the member profile
1004 corresponding to the caller's access code from the
20 member profile database 1008. The operator may then view
the member profile to perform the analysis and counseling
function 1005. If the caller's access code does not match any
of the codes on the list of eligible access codes, the caller
may again be prompted to re-enter its access code 1001, or
25 the system may optionally be equipped with a by-pass
function 1006 which allows the caller to speak with an
operator 1007 for assistance in obtaining an access code to
use the system. In lieu of a human operator, the system may
optionally prompt the caller to dial a different number for
30 assistance with obtaining an access code. In emergency
situations, systems equipped with the by-pass function may
allow the operator to initiate the analysis and counseling
function 1005 without the benefit of the caller's member
profile.

Clearly, the combination of Schoenberg and Brinkman teaches away from the claimed invention, and therefore the §103(a) rejections of claims 1, 15 and 27 cannot stand. Applicants respectfully request the withdrawal of the rejections to independent claims 1, 15, and 27.

In a similar fashion, however, Schoenberg in view of Brinkman fails to teach or suggest "receiving patient access instructions at the aggregate medical server" or "sending a portion of the patient medical information to the requestor based on the patient access instructions and the access request if the patient access instructions corresponds with the access request," as also claimed in claims 1, 15 and 27. Thus, independent claims 1, 15, and 27 are patentable over Schoenberg in view of Brinkman for at least these additional reasons.

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Additionally, Schoenberg in view of Brinkman fails to teach or suggest that the patient access instructions include alert instructions, as claimed in claims 2 and 16. At most, Brinkman teaches that the system may automatically alert the caller or the operator of important medical or pharmaceutical information. However, this teaching is not relevant to *patient access instructions*, and has no effect on the controlling of access to patient instructions. Thus, claims 2 and 16 are patentable over Schoenberg in view of Brinkman.

Schoenberg in view of Brinkman fails to teach or suggest "generating alerts over the network to any of a healthcare provider, a patient, a treatment facility or a government agency subsequent to receiving adverse medical data" as claimed in claims 3 and 17. At most, Brinkman teaches:

sages for the operator to provide to the caller. These alerts and messages may relate to items such as appropriate prescription drug use, medications the caller should avoid or use in moderation or speak to a physician before using, suggested forms of treatment based on the caller's symptoms, prescription refill reminders, prescription renewal reminders, and other information. At the end of the 50

Because Schoenberg in view of Brinkman fails to teach or suggest "generating alerts over the network to any of a healthcare provider, a patient, a treatment facility or a government agency subsequent to receiving adverse medical data" as claimed in claims 3 and 17, claims 3 and 17 are patentable over Schoenberg in view of Brinkman for at least this additional reason.

Claims 4 and 18 require "providing a hyperlink to the aggregate server wherein the hyperlink comprises the access request." Contrary to the Examiner's assertion, Schoenberg contains no such teaching. Indeed, the cited section of Schoenberg cited bears no resemblance to any such teaching:

In the illustrated embodiment, reliability is enhanced in the following manner. Each BSU is a LAN continuously monitors the integrity of its link to a server. In the event of link failure, incoming data is stored locally at the BSU. Otherwise the data is transferred to a server, where it is mirrored to a backup store or another server in real time.

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Therefore, claims 4 and 18 are patentable over Schoenberg in view of Brinkman for at least this reason.

Claims 5 and 19 require "the hyperlink is provided on a web site for access by the requestor" and contrary to the assertions of the Examiner, Brinkman makes no such teaching. At most, Brinkman teaches, that a caller may access the system using the Internet as cited by the Examiner:

accesses the system via the network or computers. The caller may optionally use other means of access such as e-mail, the Internet, or a direct computer connection to directly access the system. When the method of access is a telephone line,

Therefore, claims 5 and 19 are patentable over Schoenberg in view of Brinkman for at least this reason

Claims 8 and 22 require "verifying a portion of the patient medical information with an outside server." Because Schoenberg in view of Brinkman does not teach or suggest this element, claims 8 and 22 are patentable over the references. Indeed, the section of Brinkman cited by the Examiner as supporting such a teaching, teaches verifying *access codes*, rather than *patient medical information* as required by claims 8 and 22. See, Brinkman, column 14, lines 20-30.

Furthermore, claims 2-5, 8-14, 16-19, and 22-26 are dependent claims, depending directly or indirectly from claims 1 and 15, and are therefore patentable over the references for at least that reason.

Applicants respectfully submit that the Examiner's citation of the motivation to combine is inaccurate -- while the claimed invention attempts to prevent unauthorized access to a *patients medical record*, the references attempt to prevent unauthorized access to the *system*. Furthermore, this "motivation" does not come from the references, and the Examiner provides no evidence, official notice, Examiner's affidavit, or otherwise, regarding the skill

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of one of ordinary skill in the art. Without evidence of such factors, the motivation to combine the references must come directly from the references themselves, and the 103(a) rejection is *prima facie* flawed.

Indeed, even if the combination of references were proper, which it is not, the combination still does not arrive at the claimed invention – the references merely seek to prevent unauthorized access to a system, and not the patient medical records.

Withdrawal of the rejections to claims 1-5, 8-19, and 22-27 is respectfully requested.

B. Claims 6, 7, 20, and 21 were rejected as unpatentable over Schoenberg in view of Brinkman in view of Wong

The 103(a) rejection of claims 6, 7, 20, and 21 are unpatentable over Schoenberg in view of Brinkman in view of Wong is traversed. Schoenberg in view of Brinkman in view of Wong fails to teach or suggest, at least, “determining whether the access request corresponds with the patient access instructions” as claimed in claims 1 and 15, from which claims 6, 7, 20 and 21 depend. Claims 6, 7, 20, and 21 depend directly or indirectly from claims 1 and 15 and are therefore patentable over Schoenberg in view of Brinkman in view of Wong.

Withdrawal of the rejections to claims 6, 7, 20, and 21 is requested.

Withdrawal of the rejections to claims 1-27 is requested.

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CONCLUSION

The Applicants respectfully submit that claims 1-27 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully submitted,
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